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09/508,422	03/13/2000	RUDOLF RITTER	PM257741	9767

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EXAMINER
CHARLES, DEBRA F

ART UNIT	PAPER NUMBER
3628	

DATE MAILED: 12/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _13 May 2003_.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _13-42_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _13-42_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☒ All b)☐ Some * c)☐ None of:

      1.☒ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

13)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

    a) ☐ The translation of the foreign language provisional application has been received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _8_.

4) ☐ Interview Summary (PTO-413) Paper No(s). _____.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: .

DETAILED ACTION

Claim Rejections - 35 USC § 112

1.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2.   Claims 27-30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim Rejections - 35 USC § 103

3.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7.   Claims 13-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Block et al. (U.S. PAT. 6377938) in view of Jagadish et al. (U.S. PAT. 5844972A).

Re claims 13,18,19,23 and 27: Block et al. disclose a chipcard, data carrier and telecommunications terminal device (Fig. 1 c, item 82, Fig. 2c, item 300, Fig. C, item 300, Fig. 4C, item 300, Fig. 5c, item 300, Fig. 6a, item 305, Fig. 6e, item 300a, 300b, 305, col. 7, line 55-col. 8, line 55,i.e. a processor is a chipcard, col. 4, lines 15-67, i.e. network routing device and channel billing monitors are data carriers) and billing system(Abstract)comprising:

a pre-paid amount memory area, storing a pre-paid amount of money(col. 6, lines 20-45),

a processor which can debit or subsequently load the amount of money(col. 5, lines 30-50, col. 6, lines 45-65),

and can debit it directly out of a pre-paid memory area when a connection is established (col. 7, lines 55-67, col. 10, lines 50-65).

Block et al. disclose(s) the claimed invention except wherein the processor in addition determines a dynamic client profile from one or more random variables of previous connections of the customer and the processor can determine the amount for new connections from the dynamic client profile. However, in col. 5, lines 55-67, col. 6, lines 50-67, and Fig. 2a, items 206, 208, and 210 thereof, Jagadish et al. disclose(s) a customer profile whose parameters determine the price of a call. The profile is stored in a database and is composed of billing parameters contained in the profile. It would be obvious to one of ordinary skill in the art to modify the invention of Block et al. based on the teachings of Jagadish et al. The motivation to combine these references is to create calling prices that reflect historical customer usage to match customer demand with telecommunications supply.

Re claim 14: Block et al. disclose a display which displays the amounts for new intended connections, which amounts are determined from the stored client profile(col. 8, line 60-col. 9, line 5).

Re claims 15,16, 20,21,24,25,28 and 29: Block et al. disclose(s) the claimed invention except the fee for new connections is determined from a statistical dynamic overall client profile, which overall client profile is derived from one or multiple random variables of previous connections of at least one group of customers the overall client profile being adapted dynamically; and the random variables used to derive the client profile include the connection duration, the time of day, the day of the week, and/or geographic characteristics of previous connections. However, in col. 2, lines 15-65, col. 3, lines 55-col. 4, line 40,col. 5, lines 55-67, col. 6, lines 50-67, and Fig. 2a, items 206, 208, and 210 thereof, Jagadish et al. disclose(s) a customer profile whose parameters determine the price of a call. The profile is stored in a database and is composed of billing parameters contained in the profile and summary information of each call that is received

and rated in real time. This accumulated information is the parameters used to calculate the fee charged. It would be obvious to one of ordinary skill in the art to modify the invention of Block et al. based on the teachings of Jagadish et al. The motivation to combine these references is to implement a flexible and effective charging capability that accounts for the particular use of a network service connections and other resources by users of a network. Further, as related to the connection duration, time of day and day of the week and geographical characteristics of the calls, this information is known to be a standard part of the billing parameters associated with a call. In addition, these items are nonfunctional descriptive material that cannot render nonobvious an invention that would have otherwise been obvious. Cf. In re Gulack, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983) (when descriptive material is not functionally related to the substrate, the descriptive material will not distinguish the invention from the prior art in terms of patentability).

Re claims 17,22,26 and 30: Block et al. disclose(s) the claimed invention except wherein the amount for new connections are dependent on the statistical system load obtained from the overall client profile. However, in col. 3, lines 55-col. 4, line 40 thereof, Jagadish et al. disclose(s) two or more distinct profiles that together contain various billing parameters used to price the call for a connection in real time. This accumulated information is the parameters used to calculate the fee charged for each call. It would be obvious to one of ordinary skill in the art to modify the invention of Block et al. based on the teachings of Jagadish et al. The motivation to combine these references is to implement a flexible and effective charging capability that accounts for the particular use of a network service connections and other resources by users of a network.

8.   Claims 31-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jagadish et al. (U.S. PAT. 5844972A).
Re claims 31 and 32: Jagadish et al. disclose a billing method to determine usage fees which arise through the use of a digital telecommunications network(Abstract, col. 2, lines 1-20), comprising:

determining statistical characteristics of previous connections of a customer and at least one group of users; and calculating a usage fee billed to said customer based on said statistical characteristics, of previous connections of a customer and of at least one group of users (col. 3, lines 55-67,col. 5, lines 55-67, col. 6, lines 50-67, and Fig. 2a, items 206, 208, and 210). Jagadish et al. does not explicitly disclose statistical characteristics or group of users. However, billing parameters are statistical characteristics and it does follow that collecting data on one user or a group of users would result in the same type of data compilation. Thus, it would have been obvious to one with an ordinary level of skill in the art to employ statistical characteristics to get the benefit of implementing a flexible and effective charging capability that accounts for the particular use of a network service connections and other resources by users of a network.

9.   Claims 33-42 are rejected under 35 U.S.C. 103(x) as being unpatentable over Jagadish et al. as applied to claims 31 and 32 above, and further in view of Block et al.
Re claims 33 and 34: Jagadish et al. disclose deriving a dynamic client profile from at least one random variable of previous connections of a customer (col. 2, lines 15-65, col. 3, lines 55-col. 4, line 40,col. 5, lines 55-67, col. 6, lines 50-67, and Fig. 2a, items 206, 208, and 210), re-deriving said dynamic client profile after new connections of said customer(col. 5, lines 10-20, i.e. billing analysis occurs anew for each call).

Jagadish et al. disclose(s) the claimed invention except storing said dynamic client profile in a memory area. However, in col. 6, lines 20-45 thereof, Block et al. disclose(s) memory and storage of data. It would be obvious to one of ordinary skill in the art to modify the invention of Jagadish et al. based on the teachings of Block et al. The motivation to combine these references is to store the profile in memory for retrieval when client profile needs to be re-derived.

Re claims 35, 36 and 37: Jagadish et al. disclose maintaining the client profile so that it contains a value proportional to the average duration price per connection of the customer; maintaining the client profile so that it contains a value proportional to the average duration time of a connection of the customer; And maintaining the client profile so that it contains the number of connections of the customer in pre-defined classes of duration of customer connection

time(claims 1-3, col. 3, lines 10-25, i.e. various parameters are stated and these parameters constitute the initial and summary data used to price the call).

Re claim 38: Jagadish et al. disclose maintaining the client profile to contain multi-dimensional functions of random variables of previous connections of the customer of the digital telecommunications network(col. 5, lines 55-67, col. 6, lines 50-67, and Fig. 2a, items 206, 208, and 210).

Re claim 39: Jagadish et al. disclose deriving the client profile using random variables which include the connection duration time, the time of day, the day of the week, and/or geographic characteristics of previous connections(col. 2, lines 15-65, col. 3, lines 55-col. 4, line 40,col. 5, lines 55-67, col. 6, lines 50-67, and Fig. 2a, items 206, 208, and 210). Further, as related to the connection duration, time of day and day of the week and geographical characteristics of the calls, this information is known to be a standard part of the billing parameters associated with a call. In addition, these items are nonfunctional descriptive material that cannot render nonobvious an invention that would have otherwise been obvious. Cf. In re Gulack, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983) (when descriptive material is not functionally related to the substrate, the descriptive material will not distinguish the invention from the prior art in terms of patentability).

Re claim 40: Jagadish et al. disclose basing usage fees for new connections on the statistical system load obtained from the overall client profile(col. 3, lines 55-col. 4, line 40).

Re claim 41: Jagadish et al. disclose determining usage fees for new connections from the stored dynamic client profile when the connection is established, and charging said usage fees directly (col. 3, lines 55-col. 4, line 40, col. 5, lines 1-20, i.e. billing analysis occurs anew for each call, and prepaid balance is directly adjusted to reflect cost of each call).

Re claim 42: Jagadish et al. disclose determining usage fees for anticipated new connections prior to establishing the connection(col. 1, lines 10-37).

Jagadish et al. does not explicitly disclose informing the potential customer of said usage fees, and allowing the potential customer to interrupt the connection establishment. However, as with standard phone systems, the customer has the option to hang up and effectively disconnect the line at any time. This is an old and well-known feature in telecommunications technology. Thus, it would have been obvious to one with an ordinary level of skill in the art to employ calculating the usage fee and costs ahead of time and prompting the customer to complete or disconnect the call would be obvious in interactive call placement to get the benefit of implementing a flexible and effective charging capability that accounts for the particular use of a network service connections and other resources by users of a network.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Debra F. Charles whose telephone number is (703) 305-4718. The examiner can normally be reached on 9-5 Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hyung Sough can be reached on (703) 308-0505. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-5771.

Debra F. Charles
Examiner

JEFFREY PWU
PRIMARY EXAMINER